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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,743	10/26/2001	Balakrishnan Shankar	SJ1-026US	9121
36802	7590	07/27/2004	EXAMINER	
PACESETTER, INC. 15900 VALLEY VIEW COURT SYLMAR, CA 91392-9221			OROPEZA, FRANCES P	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/039,743	SHANKAR ET AL.
	Examiner Frances P. Oropeza	Art Unit 3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 4/18/04 (Response and Declaration).
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 27-64 is/are withdrawn from consideration.
- 5) Claim(s) 10-26 is/are allowed.
- 6) Claim(s) 1,2,4-7 and 9 is/are rejected.
- 7) Claim(s) 3 and 8 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

6.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Declaration

1. The Declarations filed on 4/18/04 under 37 CFR 1.131 is sufficient to overcome the Mann et al. (US 2002/0095195) reference.

Claim Rejections - 35 USC § 102

2. Claims 1, 2 and 4-7 stand rejected under 35 U.S.C. 102(e) as being anticipated by Haubrich (US 6379300). Haubrich discloses and implanted device (10) with an enclosure (12) and header, antenna (20a), a diplexer (26, 30, 32, 34), an RF transceiver (24) and pacing/ sensing circuitry (28) (figure 2; col. 2 @ 47 – col. 3 @ 23; col. 3 @ 46 – col. 4 @ 24). US 5697958 to Paul et al. is incorporated by reference (col. 1 @ 22-31) to teach the antenna in the header (abstract). US 5861019 to Sun et al. is incorporated by reference (col. 1 @ 22-31) to teach the antenna integrated into the casing (abstract).

The Applicant's arguments filed 4/18/04 have been fully considered but they are not convincing.

The Applicant asserts the claim is written to claim the housing isolates the communication circuitry from the cardiac therapy circuitry. The Examiner disagrees. The phrase “to house” is an intended use statement, and Haubrich teaches a cardiac therapy circuit and a communication circuit within the housing. The limitation “while isolating the communication circuitry from the cardiac therapy circuitry” is read to be taught by Haubrick who uses the housing, the diplexer and the feedthrough to isolate the two circuits.

Claim Rejections - 35 USC § 103

3. Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Haubrich (US 6379300) in view of Bardy (US 6312378). As discussed in paragraph 2 of this action, Haubrich discloses the claimed invention except for the implanted device being linked to a computing network.

Bardy teaches data management using a computing system (14, 15, 16, 17) connected to an implantable device (12) for the purpose of automatically collecting and analyzing patient information. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used a computing system connected to an implantable device in the Haubrich system in order to enable remote patient care so trends in the patient's condition can be recognized and a determination made regarding the need for intervention (figure 1; col. 1 @ 8-12; col. 2 @ 41-49).

Allowable Subject Matter

4. Claims 10-26 are allowed.
5. Claims 3 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Statutory Basis

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communication and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist at telephone number (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

7/23/04



ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700